

The
C O N S T I T U T I O N
of the
U N I T E D S T A T E S

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R. BARNES WITH AN INTRODUCTION REPRINTED
FROM AN **OUTLINE OF AMERICAN GOVERNMENT**
BY WALLACE S. SAYRE, Ph.D.

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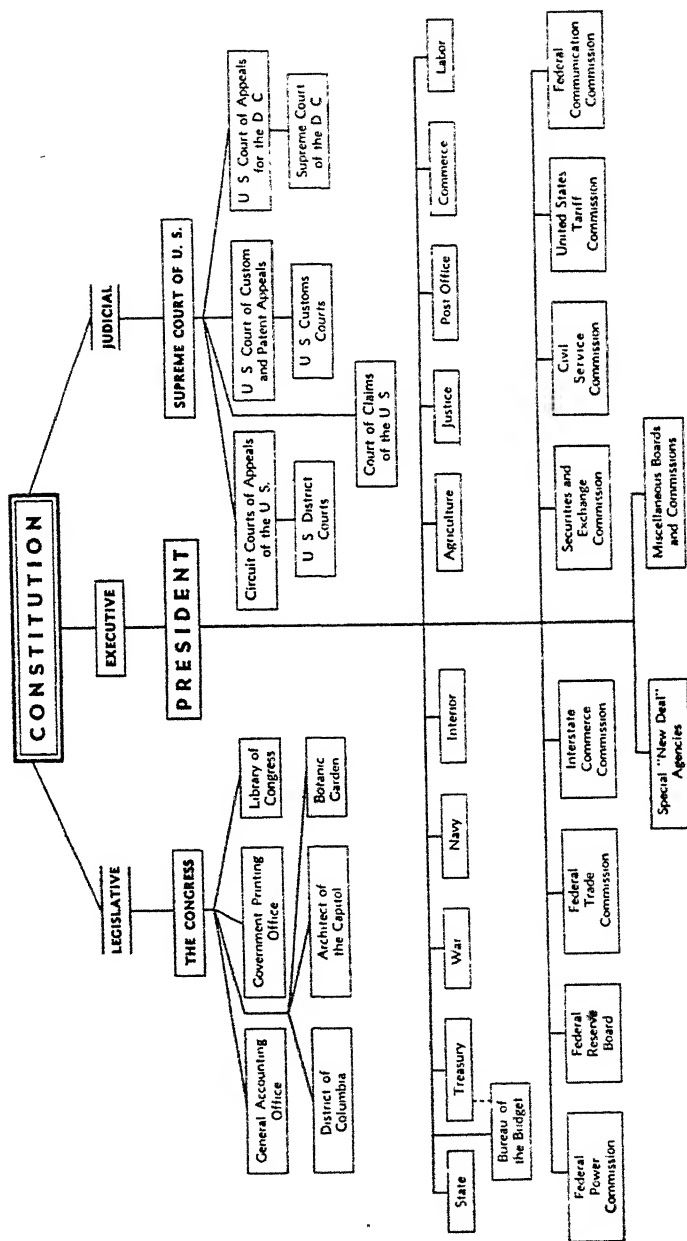
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THE NATIONAL GOVERNMENT



Introduction

ORIGIN AND DEVELOPMENT OF THE CONSTITUTION*

I. The convention of delegates which assembled in Philadelphia, in May, 1787, was composed of fifty-five members, representing twelve states.

A. **The Leaders of the Convention.** The leadership of the convention was concentrated in a few men: James Madison and George Washington, of Virginia; Alexander Hamilton, of New York; James Wilson, Gouverneur Morris, and Robert Morris, of Pennsylvania; Rufus King, of Massachusetts; John Dickinson, of Delaware. Of the opposition, Luther Martin, of Maryland, and William Paterson, of New Jersey, were prominent.

B. **Political Philosophy of the Convention.** The convention was, in contrast to the temper of the Revolution, a conservative body. Thirty-three of its members were lawyers and eight were businessmen. Their training and interests were generally conservative. Of the leaders, Hamilton and Gouverneur Morris were very critical of democracy while the others were doubtful of its virtues.

C. **Economic Interests of the Convention.** The convention in its membership reflected the predominance of the four groups of personality interests which had been most active in the movement for revision: namely, money, public securities, manufactures, and trade and shipping. Professor Beard has shown that forty of the members held public securities, fourteen were land speculators, eleven were interested in mercantile, manufacturing and shipping activities, and fifteen were slaveholders. The small farmer and debtor classes were virtually without representation.

II. The Convention was called to meet May 14, 1787, but it was not until May 25 that a quorum assembled.

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A. Organization and Procedure. At the first session of the convention Washington was unanimously selected as chairman of the convention. It was then decided that voting should be by states, each state having one vote; that the deliberation of the convention should be behind closed doors and kept secret; that a quorum should be seven states; and that a majority vote was competent to make all decisions.

B. Decision to Form a National Government. Within five days of its organization, the convention made a momentous decision when it adopted Randolph's resolution "that a national government ought to be established consisting of a supreme legislative, executive, and judiciary." Thus all pretense at revising the Articles was dropped and the convention set to work to devise a new governmental system.

C. Proposals Considered by the Convention. Although the convention was undoubtedly influenced by the forms of government already in existence, particularly the Articles and certain state constitutions (New York's most of all), it gave most of its time to consideration of specific plans laid before it by various delegates—

1. **The Virginia Plan**, introduced by Randolph on May 29, proposed: (a) A national legislature, to consist of the two houses, members of first to be elected by the people of the states and members of the second to be elected by the first from lists nominated by state legislatures. Voting in the legislature was to be proportional to taxes paid by the states to the national government or to the number of free inhabitants. The powers of the legislature were to be increased, including the right to veto state legislation. (b) A national executive, to be chosen by the national legislature. (c) A national judiciary, the judges of which were to be chosen by the national legislature and to hold office during good behavior.

2. On the same day, Charles Pinckney, South Carolina, presented **The Pinckney Plan** which proposed: (a) A congress of two houses, the first to be chosen by the people and the second by the first. (b) A president to be chosen by congress for a term of seven years. (c) A national court of appeals. (d) Congress to have power to approve or veto acts of state legislatures.

3. On June 15, William Paterson, of New Jersey, introduced **The New Jersey Plan** which represented the opposition to the Virginia Plan. It proposed: (a) Revision of the Articles, rather than adoption of a new government. (b) Congress to consist of one house as under Articles, but to have power to levy certain imposts and to regulate trade and commerce. (c) A national executive, plural in composition, elected

by Congress and without veto power. (d) A Supreme Court, the judges to be appointed by the executive and to serve during good behavior.

D. The Compromises of the Convention. The convention did not adopt, as a whole, any of the formal proposals before it, although the Virginia Plan was most influential in determining the result. Several compromises were made before the convention reached agreement.

1. **The "Connecticut Compromise":** The convention was long deadlocked over the question of representation in Congress. Finally, the Connecticut delegation proposed that there be equal representation for states in the upper house and representation based on population in the lower, a compromise which was adopted.

2. **The "Three-fifths" Compromise:** The convention also found it difficult to reach an agreement as to whether slaves should be counted as part of the population. It was finally agreed that three-fifths of the slaves should be counted.

3. **The Commerce Clause:** The interests of northern and southern delegates clashed on the question of national regulation of commerce. The compromise worked out provided that Congress should have power to regulate commerce and levy imposts, but that no tax on exports should be levied and the slave trade should not be interfered with prior to 1808.

III. The convention, knowing that the congress and the several state legislatures would be hostile to the proposed constitution, decided as a matter of strategy to refer it to conventions in the states for ratification.

A. Opposition to the Constitution. The process of ratification gave the opposition its first opportunity to express its hostility to the proposed change. In general, it may be said the forces opposed to ratification were the small farmers of the interior and the debtor classes. They made an impressive show of strength, and the constitution was finally ratified only after definite concessions were made as the price of ratification.

B. The Bill of Rights. The constitution was accepted by such states as Massachusetts, Virginia, and New York, upon the definite promise of the conservative leaders that a series of amendments guaranteeing individual rights would be speedily added to the original document. These constitute the first ten amendments to the constitution. Thus the constitution itself represents the fundamental dualism of the revolution—the conservative aspect reflected in the body of the document, and the radical aspect in the first ten amendments.

IV. The Constitution thus adopted established several fundamental principles upon which the American governmental system has since operated.

A. Popular Sovereignty and Limited Government. The practically universal conviction that government rested upon a social compact supported the theory of popular sovereignty, that government was created by and was subject to the will of the people. A natural corollary of this theory is the concept of a limited government, possessing only such powers as have been conferred upon it by the people. These two assumptions underlie the whole framework of American government.

B. A Government of Enumerated Powers. Under the Constitution, the national government is one of enumerated powers only. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." (Tenth Amendment to the Constitution).

C. Supremacy of the National Government. The national government cannot be retarded in the exercise of its enumerated powers. (1) It is protected from taxation of its agencies and interference with its officers by the states. (2) The Supreme Court is final authority in all disputes between state and national governments involving the Constitution, and the laws and treaties made in accordance thereof.

D. The Separation of Powers. The Constitution set up a strict division or separation of powers, classifying governmental powers as executive, legislative, and judicial, and entrusting the performance of each to separate agencies. This feature, copied from what was mistakenly believed to be English precedent, is now one of the most criticized characteristics of our system. It is generally believed to bring diffusion, irresponsibility, complexity, confusion, and delay to the performance of governmental functions—rather than the checking of tyranny for which it was once designed.

E. Supremacy of the Judiciary. As a corollary of the twin doctrines of limited government and the separation of powers, there has been developed, from arguments based on the Constitution, the doctrine of judicial review by which the courts exercise the power of annulling any legislative or executive acts which, in the opinion of the courts, go beyond the Constitution. This doctrine is defended by its friends as necessary to preserve the constitutional system and as producing a stable government by guarding against legislative precipitancy. It is the natural province of the courts, they declare. The critics, on the other hand, declare that the courts thus

infringe upon the legislative function, that they deny the operation of responsible representative government, and that they delay social and economic policy necessary to meet changing conditions.

V. The Constitution has shown a remarkable power of resistance against drastic change, but in many respects it has been sharply modified.

A. Amendments. A difficult amending process, requiring a two-thirds vote in congress and ratification by three-fourths of the states, has minimized change by this process. The first ten amendments were the price of ratification. The succeeding nine have made various alterations: the eleventh (1798) excludes from jurisdiction of federal courts a suit against a state by a citizen of another state or of a foreign state; the twelfth (1804) changed the method of electing the president; the thirteenth (1865) forbade slavery throughout the United States; the fourteenth (1866) defined American citizenship, forbade abridgment of its privileges and immunities, and placed the States under the limitations of "due process of law" in respect to life, liberty, and property; the fifteenth (1870) forbade suffrage discrimination on account of race, color, or previous servitude; the sixteenth (1913) gave Congress power to levy an income tax without regard to population of the States; the seventeenth (1913) provided for the popular election of United States Senators; the eighteenth (1919) prohibited the manufacture, sale, or transportation of intoxicating liquors; the nineteenth (1920) forbade suffrage discrimination on account of sex; the twentieth (1933) abolished the short or "lame-duck" sessions of Congress; and the twenty-first (1933) repealed the eighteenth amendment.

B. Development By Statute. The Constitution has been developed into a living document by the innumerable statutes which the Congress has passed in order to complete the framework of government.

C. Development By Judicial Interpretation. The courts by their decisions have created a body of "constitutional law" which is of great importance in determining the course of government. The doctrines of implied powers, of inherent powers, of the sanctity of contracts, and many others developed by the courts have virtually remade parts of the Constitution.

D. Influence of Political Parties. The persistent pressure of political parties upon the Constitution has resulted in many changes: the breakdown of the electoral college, the

modification of the separation of powers, and the control of Congress and President by party agencies.

E. Development By Custom. Finally the Constitution has been modified by the growth of custom. The anti-third-term tradition for Presidents, the development of the President's cabinet and the development of "Senatorial courtesy" may be attributed in large part to custom.

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AMENDMENTS

The first ten Amendments are frequently referred to as the *Bill of Rights*.

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Right to petition.
- II Right to keep and bear arms.
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CONSTITUTION OF THE UNITED STATES

Adopted September 17, 1787

Effective March 4, 1789

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes¹ shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, *three fifths of all other persons.*² The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall

¹ See the 16th Amendment.

² See the 14th Amendment.

have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECTION 3. 1. The Senate of the United States shall be composed of two senators from each State, *chosen by the legislature thereof*,¹ for six years; and each senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.¹

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a president *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of the President of the United States.

¹ See the 17th Amendment.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualifications to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 4. 1. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION 5. 1. Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 6. 1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

SECTION 7. 1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and the House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being

disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8. The Congress shall have the power

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

SECTION 9. 1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.¹

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State be obliged to enter, clear, or pay duties in another.

¹ See the 16th Amendment.

7. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

SECTION 10. 1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of the Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

SECTION 1. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they

shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.¹

3. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

4. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

5. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

¹ Superseded by the 12th Amendment.

6. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

7. Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

SECTION 2. 1. The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION 4. The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SECTION 2. 1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more States;—between a State and citizens of another State;¹—between citizens of different States;—between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and to fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3. 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall

¹ See the 11th Amendment.

be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained.

ARTICLE IV

SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2. 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.¹

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.²

SECTION 3. 1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

¹ See the 14th Amendment, Sec. 1.

² See the 13th Amendment.

SECTION 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.¹

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

¹ See the 14th Amendment, Sec. 4.

ARTICLE VII

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven. and of the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names. [Names omitted]

Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the legislatures of the several States pursuant to the fifth article of the original Constitution.

AMENDMENTS

First Ten Amendments passed by Congress Sept. 25, 1789.

Ratified by three-fourths of the States December 15, 1791.

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II

A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and

particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI

Passed by Congress March 5, 1794. Ratified January 8, 1798.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII

Passed by Congress December 12, 1803. Ratified September 25, 1804.

The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots, the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the pur-

pose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

ARTICLE XIII

Passed by Congress February 1, 1865. Ratified December 18, 1865.

SECTION 1. Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV

Passed by Congress June 16, 1866. Ratified July 23, 1868.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a senator or representative in Congress, or elector of President and Vice President,

or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV

Passed by Congress February 27, 1869. Ratified March 30, 1870.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI

Passed by Congress July 12, 1909. Ratified February 25, 1913.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII

Passed by Congress May 16, 1912. Ratified May 31, 1913.

The Senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

ARTICLE XVIII

Passed by Congress December 17, 1917. Ratified January 29, 1919.

After one year from the ratification of this article, the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the states by Congress.

ARTICLE XIX

Passed by Congress June 5, 1919. Ratified August 26, 1920.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

The Congress shall have power by appropriate legislation to enforce the provisions of this article.

ARTICLE XX

Passed by Congress March 3, 1932. Ratified January 23, 1933.

SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

SECTION 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d

day of January, unless they shall by law appoint a different day.

SECTION 3. If, at the time fixed for the beginning of the term of the President, the President-elect shall have died, the Vice President-elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President-elect shall have failed to qualify, then the Vice President-elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President-elect nor a Vice President-elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

SECTION 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

SECTION 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

SECTION 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

ARTICLE XXI

Passed by Congress February 20, 1933. Ratified December 5, 1933.

SECTION 1. The Eighteenth Article of amendment to the Constitution of the United States is hereby repealed.

SECTION 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof, is hereby prohibited.

SECTION 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission thereof to the States by the Congress.

A DECLARATION

BY THE REPRESENTATIVES OF THE UNITED STATES
OF AMERICA IN GENERAL CONGRESS ASSEMBLED

July 4, 1776

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great Britain is a history of repeated injuries

and usurpations, all having, in direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:—

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature: a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the meantime, exposed to all the danger of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in time of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them by a mock trial, from punishment, for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefit of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the powers of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends, and brethren, or to fall themselves by their hands.

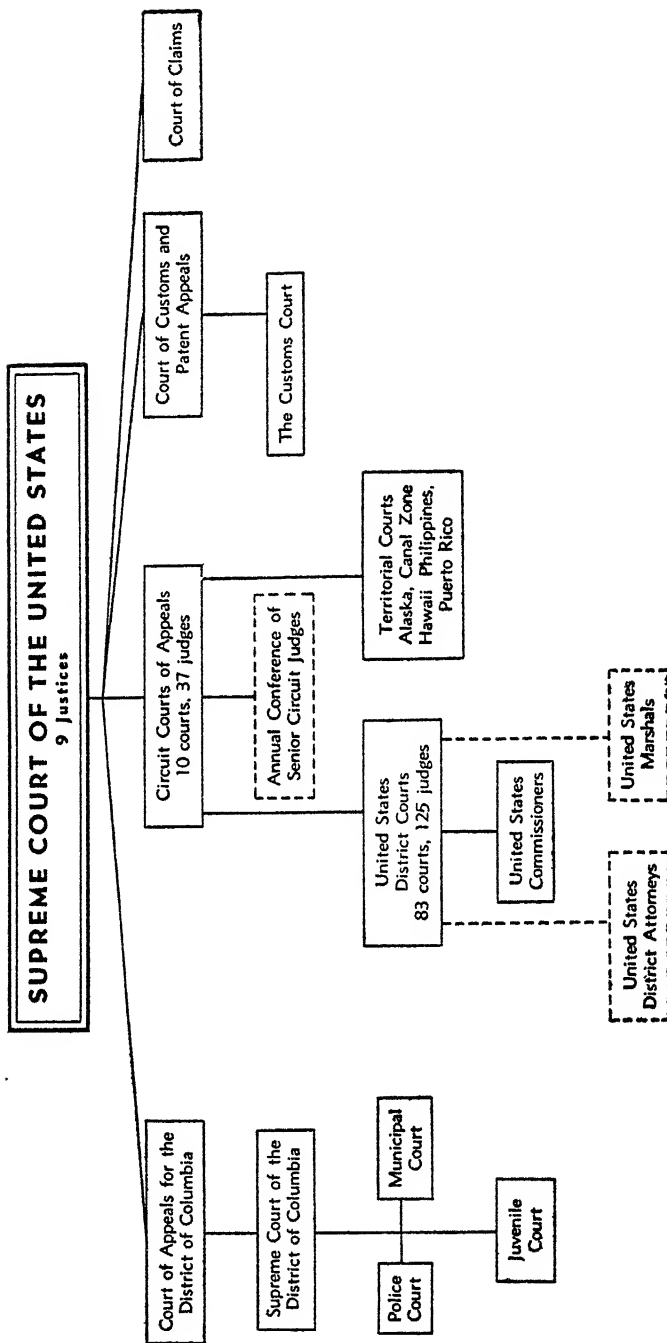
He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent states: that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And, for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

THE FEDERAL JUDICIAL SYSTEM



THE SUPREME COURT AND CONGRESS

Since 1789, the United States Supreme Court has rendered about seventy-five decisions holding Acts of Congress unconstitutional. In view of the tremendous amount of legislation enacted during this period, a definite tribute to the personnel of our Congresses is implied. It is to be remembered, of course, that the Court never gives an opinion on the constitutionality of a Congressional Act unless a law suit or test case involving the Act is brought before it.

The following table indicates how the Justices of the Supreme Court voted on the seventy-five cases declaring Acts of Congress unconstitutional.

<i>No. of Cases</i>	<i>Vote</i>
30	Unanimous
12	5-4
10	7-2
6	8-1
6	6-3
6	6-2
3	5-3
1	8-2
1	7-1

Despite the comparatively few split decisions given by the Supreme Court there has been some sentiment in favor of requiring a unanimous vote in order to declare an Act of Congress unconstitutional. It is unlikely that such a change will be made. A careful analysis of the decisions listed below will show that in some cases, the points of contention were eliminated in subsequent Amendments to the Constitution (e.g., Income Tax Case, 1895—invalidated by 16th Amendment, 1913) and by the Court's reversal of itself (e.g., Legal Tender Case, 1870—decision reversed in *Knox V. Lee*, 1871). Congress has also re-written laws to comply with the Court's interpretation of the Constitution (e.g., The First Employer's Liability Cases, January, 1908—later Act, April, 1908 held constitutional).

Whether the Supreme Court has erred in any constitutional decision is a matter of opinion, but in any event, it still remains the sole bulwark of the people against arbitrary seizure of power by officials or the Congress, and it is supreme not only as the highest court of the land but in the loyalty of American citizens.

Cases involving Federal Legislation declared Unconstitutional by the Supreme Court

1. *Marbury V. Madison* (1803)

An attempt to enlarge the original jurisdiction of the Supreme Court was declared unconstitutional. Congressional Acts contrary to Article III, Sec. 2, Cl. 2 are unconstitutional. (Vote Unanimous)

2. *Scott V. Sandford* (*Dred Scott Decision*) (1857)

Citizenship denied negro whose ancestors were brought to United States as slaves. The Constitution does not provide Congress with the power to abolish slavery in territories of the United States. (This decision invalidated by ratification of 13th Amendment). (Vote 6-2)

3. *Gordon V. United States* (1865)

Congress has no power to authorize a court to express an opinion in a case where the court is deprived of the "finality essential to judicial decisions." (Vote 8-2)

4. *Ex Parte Garland* (1867)

Congressional Act requiring the taking of a specified test oath by persons applying for, or attorneys previously admitted to, the bar of the Supreme Court was declared an *ex post facto* law. Applied in this case to a Confederate officeholder, the Act was declared a bill of attainder and an unwarranted interference with the President's pardoning power. (Vote 5-4)

5. *Reichart V. Felps* (1868)

Title to lands confirmed under Authority of an Act of the Continental Congress cannot be changed by Congress. (Vote Unanimous)

6. *The Alicia* (1869)

The Constitution defines the appellate and original jurisdiction of the Supreme Court (Article II, Sec. 2). In prize cases the Supreme Court has appellate jurisdiction only, and Congress lacks the power to transfer such cases to the Court. (Vote Unanimous)

7. *Hepburn V. Griswold* (1870)

Congress has no authority to make credit currency legal tender for payment of debts existing before its issuance. Unconstitutional because it impaired the obligation of a contract. (In *Knox V. Lee*, 1871, this decision was reversed by a 5-4 vote). (Vote 5-3)

8. *United States V. De Witt* (1870)

Congress cannot regulate the sale of oil made from petroleum, for illuminating purposes — considered interference with trade within separate States. (Vote Unanimous)

9. *Justices V. Murray* (1870)

Congress lacks authority to remove to United States Circuit Courts, after final judgment, cases brought against Federal Officials in State Courts—the law and the facts to be tried as though case originated in the Circuit Court. Such removal is not common law procedure. Unconstitutional under the 7th Amendment. (Vote Unanimous)

10. *Collector V. Day* (1871)

Unconstitutional to levy Federal income tax on salaries of state judges — interference with States' rights to maintain courts. (Vote 8-1)

11. *United States V. Klein* (1872)

Congress, lacking judicial powers, cannot prescribe rules for judicial decisions. (Vote 7-2)

12. *United States V. B. and O. Railroad* (1873)

A municipality holding taxable securities of a corporation is exempt from Federal taxes—the city being a part of the sovereign authority of the State. (Vote 7-2)

13. *United States V. Reese* (1876)

The power of Congress in State elections is, under the 15th Amendment, definitely limited—to make certain that no one is denied the right to vote on account of "race, color, or previous condition of servitude." Assumption of additional authority is unconstitutional. (Vote 7-2)

14. *United States V. Fox* (1878)

An act concerning only the State at the time of its commission, cannot be considered an offense against the United States by reason of a later independent act. (This entire Bankruptcy Law was later repealed by Congress (1878). (Vote Unanimous)

15. *Trade Mark Cases* (1879)

Trade mark laws may be passed only with regard to the power of Congress to regulate interstate and foreign commerce. (Congress later passed a new law (1881) limited to foreign commerce which was upheld by Court). (Vote Unanimous)

16. *United States V. Harris* (1883)

Congress lacks the authority to prescribe punishment for individuals conspiring to deprive others of the equal protection of the laws according to the 13th, 14th and 15th Amendments and Article IV, Sec. 2 of the Constitution. (Vote 8-1)

17. *Civil Rights Cases* (1883)

Congress lacks the authority to declare that all persons are entitled to an equal enjoyment of the facilities

of inns, theaters, etc. The 14th Amendment applies only to State action; the 13th Amendment applies only to slavery and involuntary servitude. (Vote 8-1)

18. Boyd V. United States (1886).

Act of Congress requiring the production of a person's private papers or the giving of testimony against himself in an attempt to prove a crime against the United States is unconstitutional. (See 4th and 5th Amendments). (Vote 7-2)

19. Baldwin V. Franks (1887).

Unconstitutional on same grounds as United States V. Harris, No. 16. (Vote 7-1)

20. Callan V. Wilson (1888).

Congress cannot deprive persons accused of crime, the right of trial by jury as provided in Article III, Sec. 2 of the Constitution. It is not sufficient that jury trial be provided on appeals. (Vote Unanimous)

21. Counselman V. Hitchcock (1892).

A person need not be a witness against himself in any judicial proceeding even though Congress provides that such evidence shall not be used against him in any Court of the United States. (See 5th Amendment). (Vote Unanimous)

22. Monongahela Navigation Co. V. United States (1893)

As provided in the 5th Amendment, Congress cannot take private property without just compensation. Determination of "just compensation" is a judicial not legislative function. (Vote Unanimous)

23. Pollack V. Farmers' Loan and Trust Co. (1895)

Federal taxes on personal property and the income therefrom are direct taxes which can only be levied in "proportion to the census." (Congress was later given the power to levy income taxes by adoption of the 16th Amendment). (Vote 5-4)

24. Wong Wing V. United States (1896)

Under the 5th and 6th Amendments, the right to a grand jury indictment and trial by jury cannot be denied an alien charged with crime in the United States. (Vote Unanimous)

25. Kirby V. United States (1899)

Involved violation of 6th Amendment entitling an accused person to be confronted with the witnesses against him. (Criminal Code Act, 1909, repealed entire act). (Vote 6-2)

26. Jones V. Meehan (1899)

The construction of treaties is the peculiar province of the Judiciary; and, except in cases purely political, Congress has no constitutional power to settle the rights under a treaty, or to affect titles already granted by the treaty itself. (Vote Unanimous)

27. Fairbank V. United States (1901)

Federal tax on export bills of lading unconstitutional (Article I, Sec. 9 prohibits tax on exports from any State). (Vote 5-4)

28. James V. Bowman (1903)

Action against an individual interfering with citizens' right to vote cannot be taken by the Federal Government. (15th Amendment provides the jurisdiction of the Federal Government over States, not individuals). (Vote 6-2)

29. Matter of Heff (1905)

An Act of Congress (1897) prohibiting the sale of intoxicating liquors to Indians allotted land was declared unconstitutional. The Court held that allottees under the provisions of the General Allotment Act were declared citizens and thus entitled to all the rights, privileges, etc. (This decision was later reversed by the Court, United States V. Nice, 1916). (Vote 8-1)

30. Rasmussen V. United States (1905)

The section in the Alaska Code (1900) providing that six persons should constitute a legal jury in trials for misdemeanors was declared unconstitutional. Alaska being incorporated into the United States, the Court held that persons accused of crime must be tried by a common law jury (12) as guaranteed under the 6th Amendment. (Vote Unanimous)

31. Hodges V. United States (1906)

Court ruled that interference with right of contract on account of race or color is not violation of 13th Amendment, not being "slavery or involuntary servitude." (Vote 7-2)

32. The Employer's Liability Case (1908)

An Act of Congress making interstate carriers liable for injuries to employees was declared unconstitutional. Because the terms of the law applied also to persons not engaged in interstate commerce, Congress had exceeded its authority. (A later Act, 1908 confined to interstate commerce was upheld). (Vote 5-4)

33. Adair V. United States (1908)

Congress lacks authority to make it a criminal offense for employers (interstate carriers) to discharge employees solely because of membership in a labor union. (Entire act involved in this case was repealed, 1913). (Vote 6-2)

34. Keller V. United States (1909)

The section of an act making it a felony to "harbor . . . for prostitution or for any other immoral purpose, any alien woman or girl within three years after she shall have en-

tered the United States" was declared unconstitutional on the grounds that such regulations were not within the power of Congress under the immigration clause. (Act of Feb. 5, 1917 superseded nearly all previous immigration laws). (Vote 6-3)

35. **United States V. Evans (1909)**

The prosecution cannot appeal a verdict rendered by a jury in favor of a defendant in a criminal case. (Vote Unanimous)

36. **Muskraat V. United States (1911)**

An Act designed to obtain advance opinions on the validity of legislation was declared unconstitutional. The Court's power is limited to cases arising under the laws (Article III, Sec. 2). (Vote Unanimous)

37. **Coyle V. Oklahoma (1911)**

Under Article IV, Sec. 3, new States were admitted to the Union on an equal basis with other States and Congress lacks authority to interfere with strictly internal affairs. (Removal of State Capitol in Oklahoma). (Vote 7-2)

38. **Choate V. Trapp (1912)**

Indians' vested right to tax exemption under the provisions of the Curtis Act is protected by the 5th Amendment and may not be disturbed by Congress. (Vote Unanimous)

39. **Butts V. Merchant's Transportation Co. (1913)**

Without changing the original intention implied in the Act, it was impossible to separate the sections of the Civil Rights Act, March 1, 1875, which were constitutional, so the Court declared the entire Act invalid. (Vote Unanimous)

40. **United States V. Hvoslef (1915)**

Taxing groups who charter ships is actually a tax on the goods carried (exports) and therefore unconstitutional. (Vote Unanimous)

41. **Thames & Mersey Ins. Co. V. United States (1915)**

Marine insurance being necessary to export trade cannot be taxed under the Constitution. (Vote Unanimous)

42. **Hammer V. Dagenhart (1918)**

The regulation of hours and child labor are subject only to State authority, and thus Congress exceeded its power in prohibiting interstate shipments of goods produced by children under 14 years of age. (Vote 5-4)

43. **Eisner V. Macomber (1920)**

The 16th Amendment does not give Congress the power to levy income taxes on dividends from stocks. The Court ruled that taxing stock divi-

dends was a tax on property which is a direct tax invalidated in Article I, Sec. 2, 9. (Vote 5-4)

44. **Knickerbocker Ice Co. V. Stewart (1920)**

Congress cannot delegate its legislative power by applying the rights and remedies of State Workmen's Compensation laws to maritime commerce. See Constitution Article I, Sec. 8. (Vote 5-4)

45. **Evans V. Gore (1920)**

The incomes of Federal Judges are not taxable under Article III, Sec. 1 of the Constitution which provides that compensation of Judges shall not be diminished during term of office. (Vote 7-2)

46. **United States V. L. Cohen Grocery Co. (1921)**

An Act making it unlawful for a person to charge unjust or unreasonable rates, etc., was held unconstitutional under the 6th Amendment—"the accused . . . shall be informed of the nature and cause of the accusation." (Vote 6-2)

47. **Newberry V. United States (1921)**

The Corrupt Practices Acts limiting expenditures of candidates for the United States Senate was held not to apply to primary elections. The power of Congress is limited to Article I, Sec. 4. (Vote 5-4)

48. **United States V. Moreland (1922)**

Prosecuted upon information rather than on indictment, a six months' workhouse sentence is an infamous punishment and a violation of the 5th Amendment. (Vote 5-3)

49. **Bailey V. Drexel Furniture Co. (1922)**

The entire Child Labor Tax Act was declared unconstitutional because it was obviously a penalty rather than a tax—and it violated the 10th Amendment which reserves certain powers to States. (Vote 8-1)

50. **Hill V. Wallace (1922)**

Tax on grain involved in sales for future delivery held invalid. Interference with authority of the State. (Vote Unanimous)

51. **Lipke V. Lederer (1922)**

Violation of the 5th Amendment (due process of law clause) for Congress to impose tax as a penalty on taxable goods. (Vote 7-2)

52. **Adkins V. Childrens' Hospital (1923)**

An Act to fix minimum wages in the District of Columbia held violation of 5th Amendment (due process of law clause). (Vote 5-3)

53. Keller V. Potomac Elec. Power Co. (1923)

Congress lacks the authority to either directly or by appeals confer legislative or administrative jurisdiction on the Supreme Court. (Vote Unanimous)

54. Spalding Bros. V. Edwards (1923)

Violation of Article I, Sec. 9, forbidding a tax on articles exported from a State. (Vote Unanimous)

55. Washington V. Dawson (1924)
Same grounds as Knickerbocker Ice Co. V. Stewart. See Case 44. (Vote 7-2)

56. Small V. American Sugar Refining Co. (1925)

See Lipke V. Lederer, Case 51. (Vote Unanimous)

57. Trusler V. Crooks (1926)

See Case 50. (Vote Unanimous)

58. Myers V. United States (1926)

The portion of the Tenure of Office Act (1867) which provided that the President must secure the Senate's consent for removal of executive officers appointed by him was held unconstitutional. (Vote 6-3)

59. Nichols V. Coolidge (1927)

Violation of 5th Amendment (due process of law clause) to require, for purposes of estate taxation, that the value of property transferred before the Act's passage, be included in the decedent's gross estate. (Vote Unanimous)

60. Untermeyer V. Anderson (1928)

In taxing gifts which were consummated prior to the gift tax law, Congress violates 5th Amendment (due process of law clause). (Vote 6-3)

61. National Life Insurance Co. V. United States (1928)

Congress, through Federal Income Tax Laws, cannot levy taxes on income derived from state and municipal bonds. (Vote 6-3)

62. Indian Motorcycle Co. V. United States (1931)

Interferes with the instrumentalities, means and operations whereby the States exert the governmental powers belonging to them. Thus the sale of motorcycles to a State agency is not subject to taxation by the United States. (Vote 7-2)

63. Burnet V. Coronado Oil and Gas Co. (1932)

Tax Acts which "in terms include the character of income in question" may not constitutionally be given effect as against income from leases of public lands which have been granted to a State for maintenance of public schools. (Vote 5-4)

64. Heiner V. Donnan (1932)

Congress may include in a death tax, transfers made in contemplation of death, but may not attempt to create a conclusive presumption of such intent, without regard to actualities. Such provisions may not be upheld as a gift tax because it would be contrary to the expressed intent, and would be a violation of the 5th Amendment. (Vote 6-2)

65. Booth V. United States (1934)

It is a contradiction in terms to assert that one who has retired in accordance with the statute may continue to function as a Federal judge and yet not hold the office of judge. The constitutional prohibition against diminution of salary of judges must be construed as referring to salary payable at date of appointment, irrespective of any intermediate increase. (Vote Unanimous)

66. Panama Refining Co. V. Ryan (1935) "Hot Oil Case"

Section 9c of Title I (N.I.R.A. Act, 1933) held unconstitutional. Congress cannot delegate its legislative power (e.g., prohibiting shipments in interstate commerce) to the President. (Vote 8-1)

67. Railroad Retirement Board V. Alton R. R. (1935)

The Railroad Retirement Act of 1934 was declared unconstitutional because it deprived railroads of property without due process of law and was an improper exercise of power by Congress over interstate commerce. (Vote 5-4)

68. Schechter V. United States (1935)

Section 3 of Title I (N.I.R.A. Act, 1933) declared unconstitutional on the grounds that (a) Congress lacks authority to delegate its powers to the President, (b) the codes attempted to regulate transactions within a state which lay outside the power of Congress, and (c) certain provisions were contrary to the due process of law clause. (Vote Unanimous)

69. Louisville Joint Stock Land Bank V. Radford (1935)

Frazier-Lemke Farm Mortgage Act, June, 1934, violated 5th Amendment (due process of law clause) by taking property without just compensation. (Vote Unanimous)

70. United States V. Constantine (1935)

"Where in addition to the normal and ordinary tax fixed by law an additional sum is collected by reason of conduct of the taxpayer violative of the law, and this additional sum is grossly disproportionate to the amount of the normal tax, the conclusion must be that the purpose is to impose a penalty as a deterrent

and punishment of unlawful conduct." The only support for such penalty was the 18th Amendment (repealed December, 1933). (Vote 6-3)

71. Hopkins Federal Savings and Loan Assn. V. Cleary (1935)

Constitutes an infringement of State sovereignty under the 10th Amendment to the extent that it permits the conversion of state associations into Federal ones in contravention of the laws of their creation. (Vote Unanimous)

72. United States V. William M. Butler et al. Receivers of Hoosac Mills Inc. (1935)

The Agricultural Adjustment Act was held to be an invasion of the rights of States to regulate local activities. "At best it is a scheme for purchasing with Federal Funds submission to Federal Regulation of a subject reserved to States." (Vote 6-3)

73. Rickert Rice Mills Inc. V. Fontenot (1936)

The "A.A.A. processing tax" under the Amendatory Act of 1935 "still

lacks the quality of a true tax." It remains for effectuating the regulation of agricultural production, a matter not within the powers of Congress. (Vote Unanimous)

74. Carter V. Carter Coal Co. (1936)

The Guffey Coal Act violates the due process clause by delegating to stated majorities of coal producers and miners power to regulate minimum hours of labor of the minority. The price fixing provisions cannot be separated from the labor provisions, and therefore must fall with them, so that no decision as to their constitutionality as such is necessary. (Vote 5-4)

75. C. L. Ashton, et al. V. Cameron County Water Improvement District (1936)

In voiding the Municipal Bankruptcy Law the Court ruled: "Like the power of taxation, the bankruptcy power of Congress is limited by the doctrine of non-interference with State sovereignty." (Vote 5-4)

CHIEF JUSTICES OF THE UNITED STATES SUPREME COURT

The Supreme Court first consisted of a Chief Justice and five Associate Justices (*Judiciary Act of 1789*). The number of Associate Justices was increased to six in 1807, to eight in 1837, and to nine in 1863. The Act of 1869 providing for a Chief Justice and eight Associate Justices has remained unchanged. Their term of office is for life unless a Judge shall resign or be convicted on impeachment. It is interesting to note that in the entire history of the Supreme Court the only Justice (Samuel Chase*) impeached was acquitted.

<i>Name</i>	<i>State</i>	<i>Term</i>
JOHN JAY (1745-1829)	New York	1789-1795
JOHN RUTLEDGE (1739-1800)	South Carolina	1795-1795
OLIVER ELLSWORTH (1745-1807)	Connecticut	1796-1800
JOHN MARSHALL (1755-1835)	Virginia	1801-1835
ROGER B. TANNEY (1777-1864)	Maryland	1836-1864
SALMON P. CHASE (1808-1873)	Ohio	1864-1873
MORRISON R. WAITE (1816-1888)	Ohio	1874-1888
MELVILLE W. FULLER (1833-1910)	Illinois	1888-1910
EDWARD D. WHITE (1845-1921)	Louisiana	1910-1921
WILLIAM H. TAFT (1857-1930)	Connecticut	1921-1930
CHARLES E. HUGHES (1862-)	New York	1930-1941
HARLAN F. STONE (1872-)	New York	1941-1946
FREDERICK M. VINSON (1890-)	Kentucky	1946-

* Served as Associate Justice from 1796 to 1811.

SOME PRESIDENTIAL OPINIONS CONCERNING THE CONSTITUTION

"If, in the opinion of the people, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way in which the Constitution designates. But let there be no change by usurpation; for although this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."

—GEORGE WASHINGTON

"It would be a dangerous delusion if our confidence in the men of our choice should silence our fears for the safety of our rights. Confidence is everywhere the parent of despotism. Free government is founded on jealousy, not in confidence. It is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power. Our Constitution has accordingly fixed the limits to which, and no further, our confidence will go. In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

—THOMAS JEFFERSON

"There is even now something of ill omen among us. I mean the increasing disregard for law which pervades the country; the growing disposition to substitute wild and furious passions in lieu of the sober judgments of courts As the patriots of seventy-six did to the support of the Declaration of Independence, so to the support of the Constitution and Laws let every American pledge his life, property, and his sacred honor; let every man remember that to violate the law is to trample on the blood of his father, and to tear the charter of his own and his children's liberty."

—ABRAHAM LINCOLN

"It may be the highest duty of a judge at any given moment to disregard, not merely the wishes of individuals of great political or financial power, but the overwhelming tide of public sentiment; and the judge who does thus disregard public sentiment when it is wrong, who brushes aside the plea of any special interest when the plea is not founded on righteousness, performs the highest service to the country."

—THEODORE ROOSEVELT

"This method of uniting popular control with self-imposed restraint through a Constitution and an independent Judiciary to enforce it, is the secret of the strength of our Nation, and it explains why we have lived and grown stronger under the same Constitution, in the face of all kinds of obstacles, including the greatest civil war in history, and the difficulties of a material expansion and growth of population beyond the dreams of the most imaginative statesmen."

—WILLIAM H. TAFT

"The Constitution is the sole source and guaranty of national freedom. We believe that the safest place to declare and interpret the Constitution which the people have made is the Supreme Court of the United States."

—CALVIN COOLIDGE

"It was the spirit of liberty which made our American civilization. That spirit made the Constitution. If that spirit is gone the Constitution is gone, even though its words remain. * * * Whatever that change may be, it must be clear of those confusions which impair the great safeguards of human liberty. There must never be confusion in the Bill of Rights, the balance of power, local government, and a government of laws, not of men."

—HERBERT HOOVER

"Our Constitution is so simple, so practical that it is possible always to meet extraordinary needs by changes in emphasis and arrangement without loss of essential form. That is why our constitutional system has proved itself the most superbly enduring political mechanism the world has ever seen. It has met every stress of vast expansion of territory, of foreign wars, of bitter internal strife, of world relations."

—FRANKLIN D. ROOSEVELT

THE INDIVIDUAL AND THE STATE

I. PROBLEMS IN CITIZENSHIP

The problem of good government turns on the proper relation between the individual and the state. There is wide difference of opinion as to what this relationship should be. Some feel that the state is a necessary evil, and that its activities should be confined to the maintenance of peace and order which are conceded to be minimum essentials. Others believe that the state should exercise large police powers of control over any and all activities of the individual when it is necessary to subordinate them to the larger good of the social body. (Chapter VII will deal with the theories of the ideal relationship. Here we are concerned with the *elements* which make up what is generally known as *liberty* and with the relation of liberty to the sovereignty of the state. Careful analysis will demonstrate that liberty in any real sense is possible only if sovereignty exists, and becomes more perfect as sovereignty becomes better organized through the governmental machinery of the state.) *

A. MEMBERSHIP IN THE STATE

1. Citizens

The relationship of the individual to the state varies in accordance with his legal status. He may be a citizen, a member of the state entitled to all privileges which result from full membership, or a subject, over whom the authority of the state is exercised and who owes obedience, but who does not enjoy full political rights. Sometimes citizenship is required for the full possession of even civil rights.

2. Aliens

An alien is a person not a citizen of the state in which he lives or through which he is travelling. He is entitled to the protection of the state of which he is a citizen, as evidenced by his passport. The passport itself is *prima facie* evidence of such citizenship. Civil and commercial privileges are ordinarily granted to aliens in accordance with international law and comity, or treaty provisions.

3. Nationals

A national is a person entitled to the protection of the state in which he lives, although not necessarily a citizen of the state. For example, the Filipinos will continue to be nationals of the United States

NOTE: The following pages reprinted from *An Outline of Political Science* by Jacobsen and Lipman, published by Barnes & Noble, Inc., form an excellent addendum to this little volume.

* See Ch. VII in *An Outline of Political Science*.

until they achieve complete independence, although they have never been citizens of the United States. In this juristic sense national and nationality differ from *nation* as used in Chapter III.* In international law nationals are all persons entitled to the protection of the state. A subject of King George VI who may belong ethnically to the French-Canadian nationality is juristically a British national.

4. Dual Citizenship

Citizenship may be based on place of birth (*jus soli*) or on nationality of the parents (*jus sanguinis*), the two principles which are recognized in international law.

- a. *Jus soli* is the law of the soil in which the child acquires the nationality of the place of birth regardless of parentage. Conflicts in principle are decided usually by treaties among states. This leads to dual citizenship under some circumstances, as when the child of a national where *jus sanguinis* is the custom is born on territory where *jus soli* is observed. Conversely, if a child of a national where *jus soli* is the recognized custom, is born in foreign territory which recognizes only *jus sanguinis*, the child is without legal citizenship. The status of married women under the varying rules of citizenship at present is confusing and has led some authorities to say that an international definition of citizenship would be highly desirable.
- b. *Jus sanguinis* is the law of blood in which the nationality of the child follows that of his parents or one of them.

Citizenship conferred by naturalization is a gratuitous concession on the part of the state. Conditions upon which it is conferred vary greatly from state to state, and are rigid or lenient, according to the desire of the state to obtain additional citizens at that time.

II. RIGHTS AND LIBERTIES

A. THE NATURE OF A RIGHT

During the eighteenth century, there was much talk of natural rights. Life, liberty, property, pursuit of happiness and other privileges were considered to have been conferred by the law of nature. Careful analysis shows that in a true state of nature, there could be no real liberty. The rights of each would encroach on the rights of others, to the extent that each could actually have and maintain his rights only by force.

When each individual in the state has the right to do as he chooses while he encroaches least upon the corresponding rights of others the best adjustment is achieved. Therefore, liberty has both a positive and a negative aspect. Some authority must set bounds to the liberty of

* See Ch. III in *An Outline of Political Science*.

each, to protect thereby the liberty of all. The state performs this function through its organization, government. In a moral sense the individual has rights against the state, but in a legal sense he has none. The state may take his life in war or emergency, or as penalty for crime. It may take his property through taxation. It limits his liberty and pursuit of happiness by whatever restrictions are necessary for the common good. As society becomes more and more complex, the liberty of each is subject to more and more restrictions for the best interests of all. For example, the uses to which property may be put are limited by zoning ordinances in a large city. The state's right to eminent domain limits the right of the individual to use any *particular* property. The only source of legal liberty is the state, whose sovereignty alone makes possible the existence of legal rights.

B. MEANINGS OF LIBERTY

The term liberty is used in various senses and is an example of the lack of scientific or accurate terminology in political science. In ordinary usage, liberty is synonymous with the ability to think and act as one chooses without interference. It might be better said that liberty grants one the right to act without undue interference; or, so long as one's actions do not interfere with the equal liberty of others. When they do interfere with what should be the liberties of others, such actions become license.

1. Natural Liberty

Natural liberty is the right of each to do as he chooses without interference such as is assumed to exist in a "state of nature."

2. National Liberty

National liberty is synonymous with political autonomy, and is external sovereignty. A people which has national liberty constitutes a sovereign state.

3. Political Liberty

Political liberty is used to mean democracy, popular or representative government. In this sense it refers to the political rights which are conferred by the state on certain of its inhabitants.

4. Civil Liberty

Civil liberty comprises the rights and privileges which are created and protected by the state for its subjects. Within the limits set down by law, each may do as he chooses. The concept of civil liberty may involve protection from interference by other citizens or organizations or by the government itself. Constitutional law may restrain particular organs of government from interfering with individuals, but the legal right of the sovereign to interfere in whatever way necessary is always present.

Of the four types of liberty named, natural liberty and national liberty are moral rights; political liberty and civil liberty are legal rights. Political liberty implies a democratic state, political rights and political duties. Duties are too little considered, generally; many fail to realize that a right cannot exist without correlative duty or responsibility.

C. KINDS OF RIGHTS

1. Political Rights

Underlying the concept of political liberty is the idea that as many citizens as possible should share in the exercise of political rights and that the laws of the state should represent the will of the majority of its inhabitants. Obviously, of course, it is not possible to give equal political rights, equal governmental power, to all. Government offices must be filled on a basis of capacity to serve. There must be some limitations on the electorate, which is never the entire population. Obviously an infant cannot be given political rights. The problem of the state, in conferring political rights, is so to confer them that they will be used wisely; so to organize the governmental organs that legal sovereignty and political sovereignty will very nearly coincide.

2. Civil or Private Rights

Civil rights are the legal immunities of individuals, which the state protects against interference. These vary widely in different periods of history, and in different states. In modern states there is substantial agreement on the rights which are considered fundamental, but wide difference of opinion as to their extent and the methods by which they should be protected. The rights considered fundamental in democratic states follow:

- a. *The right to life.* Unless life itself is secure, no rights are possible. Even the most primitive states make some provision for personal safety. The state itself takes life through war, or as punishment for crime. Capital punishment involves both the idea of revenge, a life for a life, and the idea of removing an individual dangerous to the lives of others. The right of self-defense and the use of force to protect one's life are generally recognized. The state views suicide as undesirable, and in some states unsuccessful attempts at suicide are punishable as crimes.
- b. *The right to personal freedom.* An individual should have the right to determine his life, his course of action, to move as he chooses, insofar as it does not interfere with equal liberties of others. Because slavery and serfdom prevent this, they are generally condemned. Mobilization of industry has been attacked on the ground that it interferes unduly with personal freedom. Contemporary Italy and Russia do not permit full freedom of choice of occupation. Often where liberty of choice is said to exist there is no real freedom to choose one's occupation and domicile.

- c. *The right to contract.* The state permits only such contracts as are not in conflict with the general welfare. These contracts it protects. The rights and obligations growing out of them become the subject of laws regulating them in detail. Sometimes legislation for the social welfare has been opposed or prevented on the ground that it interferes unduly with freedom of contract. The Supreme Court of the United States still regards minimum wage legislation as unconstitutional, on this ground.
- d. *The right of property.* Except in the extreme form of communism, the right of the individual to some property is generally recognized. Desire for ownership is held to be a basic human urge. The state protects personal property against theft and usually provides for protection against damage of various sorts, through its code of civil law. However, it interferes with property by taxation, by the right of eminent domain, by martial law in emergency, whenever the social good demands it. There is at present much controversy over the degree of public regulation which should be permitted, and the degree to which the state itself should own the means of providing public services.
- e. *The right to earn a livelihood.* It is coming to be recognized that the individual has a right either to employment or to engage in a remunerative business or profession. When economic conditions are such that this right is denied to a large number of people, it may become the duty of the state to intervene to provide employment.
- f. *The right of freedom of belief.* Frequently only the religion and worship officially approved by the state have been permitted. The modern tendency is to permit religious freedom, and to keep the church and the state separate. Freedom of belief does not mean that the individual may refuse to obey laws which are in conflict with his personal opinions of right and wrong. This problem becomes acute during war, as when "conscientious objectors" refuse to bear arms.
- g. *The right of freedom of speech and of the press.* Democratic states usually permit free expression of opinion, orally or in writing, so long as no untrue statements are made about other individuals. Some states prohibit any expression which is deemed contrary to public policy. In time of war, freedom of speech is curtailed to maintain unity and to avoid giving aid to the enemy. Anglo-Saxon people value highly the right of freedom of expression. It is held by some that the best antidote for subversive ideas is to give them a full hearing. There is difference of opinion as to the degree of freedom which should be permitted. Most states have some degree of censorship, based on morals, public policy, and the like. In Germany, Italy, and Russia contemporary rigid censorship of the press exists.

- h. *The right of family relationship.* Marriage and divorce, and the major obligations in the relationship of husband and wife, parent and child, are regulated by law. Most states permit the family as a unit a large degree of freedom to regulate its own affairs, and permit its members to arrange inheritance of property as they choose. There is more interference in this field than formerly. Children were at one time at the mercy of their fathers; today, most states would take a child away from parents who were judged to be "improper guardians," for failure to provide adequately for physical, mental, or moral care.
- i. *Procedural rights.* In both civil and criminal actions, the individual is entitled to uniform procedure at the hands of the state. These rights vary according to the judicial code of the state, but in any event mean trial according to the law of the land. The Bill of Rights in the U.S. Constitution is generally supposed to afford very liberal treatment to the individual, guaranteeing among other things, the right to speedy and fair trial, the right of trial by jury, the guarantee of no deprivation of life, liberty, or property without due process of law.
- j. *The right of equality before the law.* Theoretically, the modern state enforces the same law over rich and poor alike; gives all persons equal legal rights, privileges, obligations, and protection. This does not correspond to the facts in many states. There is a general feeling that the rich, able to afford counsel, appeals to higher courts, and other expenses of litigation, obtain better treatment than the poor.
- k. *The right of association.* The state permits wide freedom in the formation of associations for various purposes, such as religious associations, labor organizations, social clubs, scientific organizations, commercial corporations. Such organizations must serve legal ends, and are subject to control to safeguard the general welfare.

3. Guarantee of Civil Rights

Interference with these rights may come either from the state itself or from other individuals. The protection which the state gives to the individual is through its courts of law. In some countries special administrative courts act as a safeguard to citizens against encroachment by government officers. In the United States and some other states a Bill of Rights, which forms part of the Constitution, sets forth the limits beyond which governmental organs may not go in dealing with individuals. Custom is a powerful force in the maintenance of civil rights.

III. ADJUSTMENT OF SOVEREIGNTY AND LIBERTY

Modern opinion differs widely on the best adjustment. It can be said only that each state must work out its problems, based on the

abilities, needs and desires of its people. It must watch vigilantly for changing conditions, and be ever ready to make the necessary adjustments to meet new situations.

Two major problems enter into the adjustment.

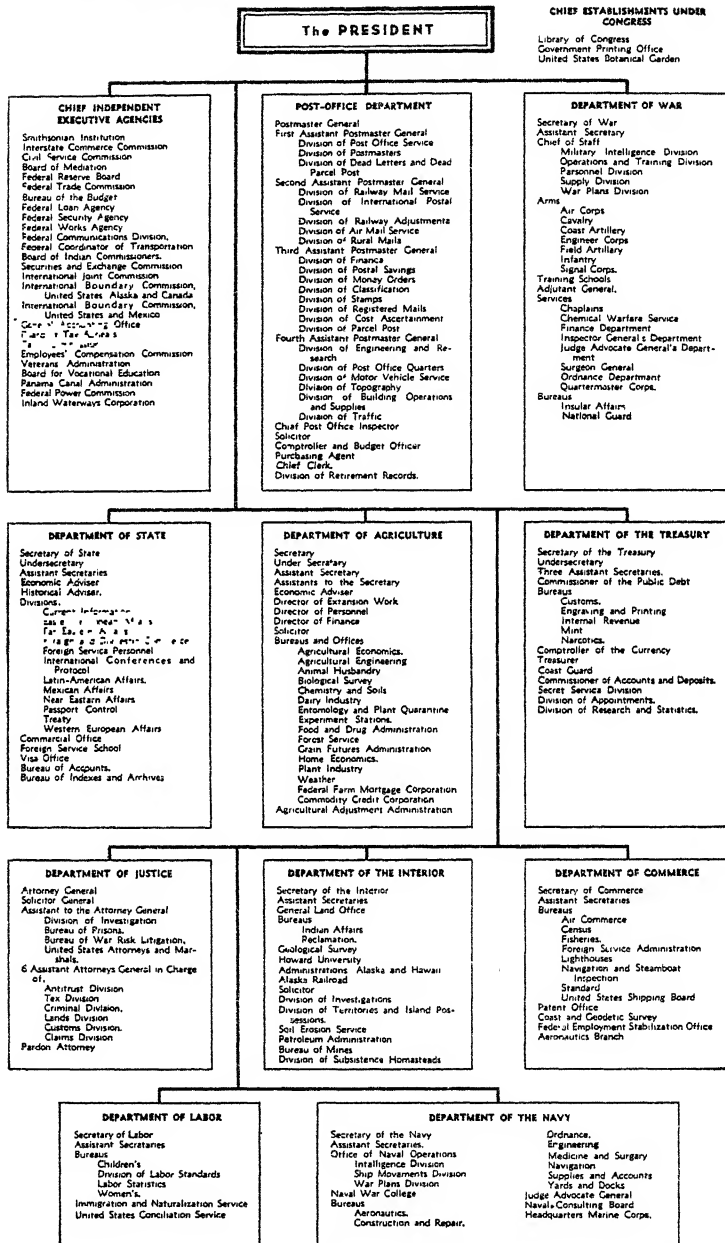
1. Who shall govern the state? This is the problem of organization, and depends upon the distribution of political rights.
2. To what extent shall the state control the individual? This is the problem of functions of the state, and concerns the nature and extent of civil rights.

The ideal to be attained in their solution is that adjustment which will permit individual freedom, yet maintain such degree of control over all that each may enjoy real freedom within reasonable limits of law.

In the following chapters we shall examine:

1. The field of study which deals with concepts of liberty, sovereignty, statecraft, and related ideas: *political science*.
2. The modern state, in terms of the concepts which are utilized by political scientists.
3. The mechanics of the state; its governmental machinery, organization, operation, and control.

THE ORGANIZATION OF THE EXECUTIVE DEPARTMENT



QUALIFICATIONS AND POWERS OF GOVERNMENT OFFICIALS

THE PRESIDENT (Term 4 years)

Qualifications.

A natural born citizen. Fourteen years a resident in the United States. At least 35 years of age.

Powers and Duties.

Execution of all laws. Makes treaties with advice and consent of Senate. Appoints ambassadors to foreign countries, Judges of the Supreme Court and of the inferior federal courts, and about 17,000 other officers of the national government. Recommends measures to Congress. Convenes extraordinary sessions of Congress. Has veto power over legislation except it be repassed by a two-thirds majority. Commander-in-Chief of the Army and Navy.

Salary and Allowances.

Salary of \$75,000 per year. Special allowances for White House and other expenses amount to about one half million dollars per year.

VICE PRESIDENT (Term 4 years)

Qualifications.

Same as for President.

Powers and Duties.

Presiding Officer of the Senate—votes only in case of tie. Office of little importance except for the possibility of succeeding to the Presidency (six of our thirty-two Presidents have died in office).

Salary and Allowances.

Salary of \$15,000 per year and allowances.

HOUSE OF REPRESENTATIVES (Term 2 years)

435 Members

Qualifications.

25 years of age. An American citizen seven years. Inhabitant of state where elected. Other qualifications determined by the House.

Special Powers and Duties*.

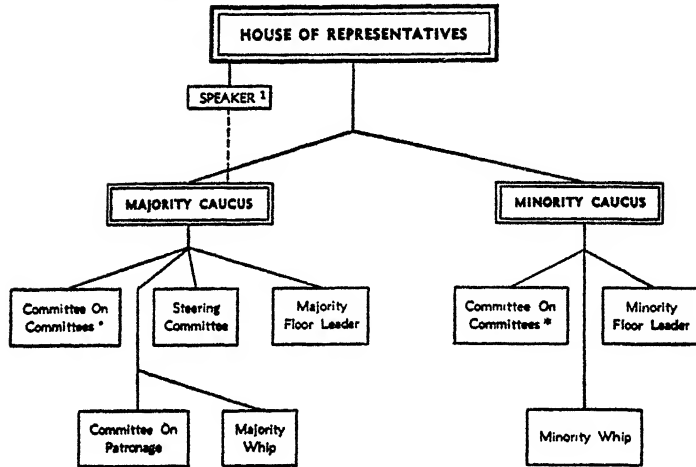
Originate revenue bills. Originate and prefer impeachment charges. Elects President if Electoral College fails to do so.

Salary and Allowances.

\$10,000 per year and allowances.

* These obviously do not include the general powers and duties common to both Houses of Congress, e.g., the power to lay and collect taxes and to appropriate money, etc.

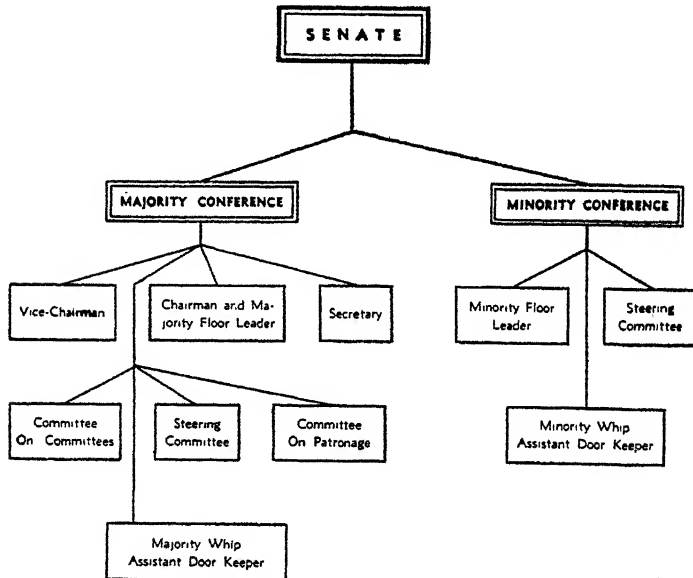
PARTY ORGANIZATION UNITED STATES HOUSE OF REPRESENTATIVES



1. The speaker is in fact the choice of the Majority Caucus, though formally selected by a vote of the whole House.

* Members of the Ways and Means Committee in Democratic Organization.

PARTY ORGANIZATION UNITED STATES SENATE



SENATE (Term 6 years)

Two from each state (96)

One third of the membership elected every two years

Qualifications.

Not less than 30 years of age. At least nine years a citizen. Must be an inhabitant of the state from which he is elected. Other qualifications determined by the Senate.

Special Powers and Duties*.

Confirms Presidential appointments. Approves or rejects treaties. Acts as court of impeachment. Elects Vice President if Electoral College fails to do so.

Salary and Allowances.

\$10,000 per year and allowances.

THE CABINET

Appointed by the President and approved by Senate. Act as Council of advisers to the President. Salary \$15,000 per year. An Act of Congress, 1886, provided for the succession of Cabinet Officers to the Presidency in the event of the removal, death, resignation, or inability of both the President and Vice President. The Cabinet officers listed below are arranged in accordance with this Act. The Departments of Agriculture, Commerce and Labor have since been organized.

- | | |
|------------------------------|------------------------------|
| 1. Secretary of State | 6. Secretary of the Navy |
| 2. Secretary of the Treasury | 7. Secretary of the Interior |
| 3. Secretary of War | 8. Secretary of Agriculture |
| 4. Attorney General | 9. Secretary of Commerce |
| 5. Postmaster General | 10. Secretary of Labor |

* These obviously do not include the general powers and duties common to both Houses of Congress, e.g., the power to lay and collect taxes and to appropriate money, etc.

PRESIDENTS OF THE UNITED STATES

<i>No.</i>	<i>Name</i>	<i>Native State</i>	<i>Party</i>	<i>Term</i>
1	GEORGE WASHINGTON (1732-1799)	Va.	Federalist	1789-1797
2	JOHN ADAMS (1735-1826)	Mass.	Federalist	1797-1801
3	THOMAS JEFFERSON (1743-1826)	Va.	Rep.-Dem.	1801-1809
4	JAMES MADISON (1751-1836)	Va.	Rep.-Dem.	1809-1817
5	JAMES MONROE (1758-1831)	Va.	Rep.-Dem.	1817-1825
6	JOHN QUINCY ADAMS (1767-1848)	Mass.	Rep.-Dem.	1825-1829
7	ANDREW JACKSON (1767-1845)	S. C.	Democrat	1829-1837
8	MARTIN VAN BUREN (1782-1862)	N. Y.	Democrat	1837-1841
9	WILLIAM HENRY HARRISON (1773-1841)	Va.	Whig	1841
10	JOHN TYLER (1790-1862)	Va.	Democrat	1841-1845
11	JAMES KNOX POLK (1795-1849)	N. C.	Democrat	1845-1849
12	ZACHARY TAYLOR (1784-1850)	Va.	Whig	1849-1850
13	MILLARD FILLMORE (1800-1874)	N. Y.	Whig	1850-1853
14	FRANKLIN PIERCE (1804-1869)	N. Hamp.	Democrat	1853-1857
15	JAMES BUCHANAN (1791-1868)	Pa.	Democrat	1857-1861
16	ABRAHAM LINCOLN (1809-1865)	Ky.	Republican	1861-1865
17	ANDREW JOHNSON (1808-1875)	N. C.	Republican	1865-1869
18	ULYSSES S. GRANT (1822-1885)	Ohio	Republican	1869-1877
19	RUTHERFORD B. HAYES (1822-1893)	Ohio	Republican	1877-1881
20	JAMES A. GARFIELD (1831-1881)	Ohio	Republican	1881
21	CHESTER A. ARTHUR (1830-1886)	Vt.	Republican	1881-1885
22	GROVER CLEVELAND (1837-1908)	N. J.	Democrat	1885-1889
23	BENJAMIN HARRISON (1833-1901)	Ohio	Republican	1889-1893
24	GROVER CLEVELAND (1837-1908)	N. J.	Democrat	1893-1897
25	WILLIAM MCKINLEY (1843-1901)	Ohio	Republican	1897-1901
26	THEODORE ROOSEVELT (1858-1919)	N. Y.	Republican	1901-1909
27	WILLIAM H. TAFT (1857-1930)	Ohio	Republican	1909-1913
28	WOODROW WILSON (1856-1924)	Va.	Democrat	1913-1921
29	WARREN G. HARDING (1865-1923)	Ohio	Republican	1921-1923
30	CALVIN COOLIDGE (1872-1933)	Vt.	Republican	1923-1929
31	HERBERT C. HOOVER (1874-)	Iowa	Republican	1929-1933
32	FRANKLIN D. ROOSEVELT (1882-1945)	N. Y.	Democrat	1933-1945
33	HARRY S. TRUMAN (1884-)	Mo.	Democrat	1945-

ENTRANCE OF STATES INTO UNION

Original thirteen states indicated by italics.

<i>State</i>	<i>Settled</i>	<i>Area Sq. Mi.</i>	<i>Entered Union</i>
Alabama	1702	51,998	1819
Arizona	1580	113,956	1912
Arkansas	1685	53,335	1836
California	1769	158,297	1850
Colorado	1858	103,948	1876
<i>Connecticut</i>	1635	4,965	1788
<i>Delaware</i>	1726	2,370	1787
Florida	1559	58,666	1845
<i>Georgia</i>	1733	59,265	1788
Idaho	1842	83,354	1890
Illinois	1720	56,043	1818
Indiana	1733	36,045	1816
Iowa	1788	55,586	1846
Kansas	1727	81,774	1861
Kentucky	1765	40,181	1792
Louisiana	1699	45,409	1812
Maine	1624	29,895	1820
<i>Maryland</i>	1634	9,941	1788
<i>Massachusetts</i>	1620	8,039	1788
Michigan	1650	57,480	1837
Minnesota	1805	80,858	1858
Mississippi	1716	46,362	1817
Missouri	1764	68,727	1821
Montana	1809	146,131	1889
Nebraska	1847	76,808	1867
Nevada	1850	110,690	1864
<i>New Hampshire</i>	1623	9,031	1788
<i>New Jersey</i>	1664	7,514	1787
New Mexico	1537	122,503	1912
<i>New York</i>	1614	47,654	1788
<i>North Carolina</i>	1650	48,740	1789
North Dakota	1780	70,183	1889
Ohio	1788	40,740	1803
Oklahoma	1889	69,414	1907
Oregon	1838	95,607	1859
<i>Pennsylvania</i>	1682	45,126	1787
<i>Rhode Island</i>	1636	1,067	1790
<i>South Carolina</i>	1670	30,495	1788
South Dakota	1794	76,868	1889
Tennessee	1757	41,687	1796
Texas	1686	262,398	1845
Utah	1847	82,184	1896
Vermont	1724	9,124	1791
<i>Virginia</i>	1607	40,262	1788
Washington	1811	66,836	1889
West Virginia	1727	24,022	1863
Wisconsin	1670	55,256	1848
Wyoming	1834	97,548	1890

TERRITORIES AND DEPENDENCIES

	<i>Acquired</i>	<i>Area Sq. Mi.</i>
Alaska	1867 — purchased from Russia	590,884
Hawaiian Islands	1900 — annexed	6,449
Philippine Islands	1899 — ceded to U. S. by Spain	127,853
Puerto Rico	1898 — ceded to U. S. by Spain	3,435
Virgin Islands	1917 — purchased from Denmark	133

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